

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

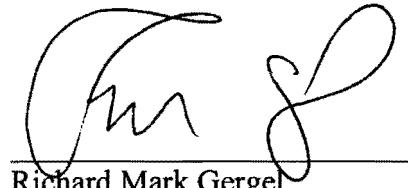
Athena R. Benton,)	
)	Case No. 9:12-766-RMG
Plaintiff,)	
)	
v.)	
)	ORDER
Belk, Inc., Ginger Olszewski, Jane Doe,)	
John Doe,)	
)	
Defendants.)	
)	

This matter is before the Court upon the recommendation of the Magistrate Judge Bruce H. Hendricks that Defendant Ginger Olszewski's motion to dismiss (Dkt. No. 13) be granted in part and denied in part. This employment matter was referred to the Magistrate Judge for pre-trial handling pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02 DSC. The Magistrate Judge issued a Report and Recommendation ("R & R") on September 20, 2012. No timely objections have been made to the Magistrate Judge's R & R.

Where a Magistrate Judge has submitted to a District Court a R & R, any party may file written objections within 14 days of the issuance of the R & R. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A District Court must "make a *de novo* determination of those portions of the report . . . or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). Where no timely filed objection has been made, the District Court is obligated to review the R & R to confirm that "there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

The Court has reviewed the record in this matter, the R & R of the Magistrate Judge, and the applicable law. The Court finds that the Magistrate Judge has ably and thoroughly addressed the factual and legal issues in this matter. Consequently, the Court hereby **ADOPTS** the Report and Recommendation of the Magistrate Judge as the order of the Court. Accordingly, Plaintiff's ADA claim against Defendant Ginger Olszewski is **DISMISSED**, and Plaintiff is allowed 15 days from the date of this order to amend her Complaint to state a claim under the FMLA as discussed in the R & R.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

October 31, 2012
Charleston, South Carolina